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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,709	12/14/2005	Clark C Davis	1001.1844106	8385
28075 7590 09/13/2010 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER FOREMAN, JONATHAN M	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 09/13/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,709

Applicant(s)

DAVIS ET AL.

Examiner

JONATHAN ML FOREMAN

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-76 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 53-67 is/are allowed.
6) ☒ Claim(s) 68-76 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SI/225)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 68 - 70, 72, 74 – 76 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,792,116 to Berg et al.

In regard to claims 68 - 70 and 72, Berg et al. disclose a medical device (Figure 8), comprising: an elongate tubular member having a plurality of slots (92) formed therein; a corrugated liner (50) disposed within the tubular member, wherein at least some corrugations of the corrugated liner are disposed at longitudinal positions along the medical device substantially corresponding to longitudinal positions of at least some of the plurality of slots (Figure 8); an anti-collapsing structure (Col. 6, lines 5 – 7) coupled to the corrugated liner; and a polymer sleeve (52) disposed over the corrugated liner and the anti-collapsing structure. The corrugations include inward corrugations (Figure 8). The corrugations are outward in that they extend out of a surface. The anti-collapsing structure includes a coil in that a braid includes a series of woven coils.

In regard to claims 74 - 76, Berg et al. disclose a method for manufacturing a medical device, the method including providing a tubular member (Figure 8) having a plurality of slots (92) formed therein; providing a liner (50); forming a plurality of inward corrugations in the liner (Col. 6, lines 47 – 50); and disposing the liner within the tubular member (Figure 8). Forming a plurality of corrugations in the liner includes applying pressure to the liner, stretching the liner, or molding the

liner (Col. 8, lines 47 - 49). At least some of the plurality of slots have a substantial transverse component with respect to a long axis of the medical device and at least some of the plurality of corrugations are disposed at longitudinal positions along the medical device substantially corresponding to longitudinal positions of at least some of the plurality of slots (Figure 8).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,792,116 to Berg et al. in view of U.S. Patent No. 4,698,890 to Neaves.

Berg et al. disclose the liner including inward corrugations, but fail to disclose a coil disposed in the inward corrugations. Neaves teach a tubular member having inward corrugations and a coil (26) disposed in the inward corrugations (Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the liner as disclosed by Berg et al. to include a coil disposed in the inward corrugations as taught by Neaves in order to inhibit kinking when the liner is bent (Col. 3, lines 60 - 63).

5. Claim 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,792,116 to Berg et al. in view of U.S. Patent Application Publication No. 2002/0198492 to Miller et al.

Berg et al. disclose a braid (which includes at least one coil) coupled to the outer surface of the liner, but fails to disclose the coil being a ribbon coil. Miller et al. disclose a tubular medical

device. Miller et al. teach the medical device including a braid or a helically wound coil of wire or ribbon [0022]. Because Miller et al. teach a braid as being functionally equivalent to a ribbon coil, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the braid disclosed by Berg et al. to include a ribbon coil in that Miller et al. teach both braid and ribbon coil as suitable for providing strength to a tubular medical device.

Allowable Subject Matter

6. Claims 53 – 67 are allowed.

Response to Arguments

Applicant's arguments filed 6/30/10 have been fully considered but they are not persuasive. Applicant asserts that Berg et al. disclose perfusion channels as being radial spaced about distal perfusion section 90 extending longitudinally along the exterior surface thereof and does not disclose at least some of the plurality of slots have a substantial transverse component with respect to a long axis of the medical device and at least some of the plurality of corrugations are disposed at longitudinal positions along the medical device substantially corresponding to longitudinal positions of at least some of the plurality of slots. However, the Examiner disagrees. Although the corrugations disclosed by Berg et al. extend along the longitudinal axis of the device, they still have a substantial transverse component with respect to a long axis of the medical device (Figure 8). It is noted that substantial is a relative term. At least some of the plurality of corrugations are disposed at longitudinal positions along the medical device substantially corresponding to longitudinal positions of at least some of the plurality of slots (Figure 8).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN ML FOREMAN whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736